IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CRMMO No. 29 of 2006

Decided on : April 19, 2006

Dharam Pal **…..Petitioner.**

VERSUS

State of Himachal Pradesh **…..Respondent.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?[1] Yes.

For the Petitioner : Mr. G.R. Palsara, Advocate.

For the Respondent : Mr. C.B. Singh, Deputy Advocate General.

Surjit Singh, Judge (Oral)

Heard. The Revision Petitioner was convicted of and sentenced for an offence, under Section 61 of the Punjab Excise Act, as amended by the Act of 2004 of Himachal Pradesh. He challenged the conviction and sentence by filing an appeal to the Sessions Judge. Appeal was dismissed. When he came in revision to this Court, his Revision Petition was also dismissed. Now, he has filed the present petition, under Section 482, Cr.P.C., in which the prayer is made that the offence of which he has been convicted, being compoundable by Magistrate 1st Class or by Excise Officer 1st Class, this Court should remand the case back to the Chief Judicial

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment? Yes.***

Magistrate, Mandi, who initially convicted and sentenced the Revision Petitioner, for compounding the offence.

2. After having heard the learned counsel for the petitioner as also the learned Deputy Advocate General, I have no manner of doubt that the petition is misconceived. This Court, having already disposed of the Revision Petition, has become *functus officio*. The case in which the Revision Petitioner has been convicted and sentenced is now not pending in any Court. Compounding of an offence is permissible only when the matter is pending either in the trial Court or in the Appellate or Revisional Court.

3. There is another way of looking at the matter. In case, the prayer of the Revision Petitioner is granted, that would mean reviewing the order passed by this Court in Criminal Revision, which is not permissible, in view of the bar contained in Section 362, Cr.P.C.. In this view of the matter, I find support from ***Moti Lal v. State of Madhya Pradesh, AIR 1994 SC 1544;*** and ***State of Orissa v. Ram Chander Agarwala etc., AIR 1979 SC 87.***

4. As a result of abovestated position, the petition is dismissed.

(Surjit Singh)
Judge.

April 19, 2006(sd)